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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,652	01/13/2004	Blake Cumbers	5590.00010	3926

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EXAMINER

SAGER, MARK ALAN

ART UNIT PAPER NUMBER

3713

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,652

Applicant(s)

CUMBERS, BLAKE

Examiner

M. A. Sager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/13/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Priority

1. This application repeats a substantial portion of prior Application No. 10/080829, filed 2/22/02, and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: 'registering the player' (clm 6-9, 16, 30-34) where registering is registration such as creating a new account or to enroll formally, and 'associating said identification code with said biometric identification of said player to create a player file' (clm 35-40) is similarly opening/creating a new player account.

3. The claims filed 1/13/04 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: where 'registering the player' (clm 6-9, 1630-34) and 'associating said identification code with said biometric identification of said player to create a player file (clm 35-40) is opening/creating a new player account. This objection is provided due in part to priority (sic) being continuation rather than continuation in part where 'registering' is registration for creating a new account at the gaming machine/table. However, originally filed specification enables

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opening/creating an anonymous account (without input of a PIN) and enables player entry of a PIN so as to associate player biometric data, subsequent play data with player's account file associated with PIN and biometric data, but does not enable the creation of a new player file (see Patent 6142876, 6:66-7:9; Patent 6234900, 7:46-60; Patent 6554705, 9:22-37; Patent 678459, 11:10-24).

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 6-9, 16, 30-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Where priority of 10757652 is a continuation of 10080829 [rather than C-I-P], 'registering the player' (clm 6-9, 16, 30-34) and 'associating said identification code with said biometric identification of said player to create a player file' is each opening/creating a new player account that is each not taught by originally filed disclosure (10757652) for a player to register at a gaming machine such as to create/open a new player account at a gaming machine/table.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2, 4-8, 10-11, 13, 15-18, 20-21, 23, 26-27, 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Matchett (5229764). As best understood, Matchett discloses an electronic gaming machine (fig 10-11), a gaming system (figs. 1-11), a system and a method (figs 1-11) comprising a processor (ref. 114), a biometric identification means that is integrated in a gaming machine and that acquires physical features of player's face, or acquires a fingerprint of player (1:60-2:12, 2:17-20, 3:10-51, 6:34-48, figs.1-11, esp. 10-11), where biometric id means is remotely located from gaming machine (2:17-20, 6:34-48), further comprising an input means for a player to input an identification code, said code being associated with biometric player identification, for registering the player for participation where 'registering' is to enter in an official register, i.e. access or authentication such that an account for access was already established and the input of code is for authentication/access thereto rather than meaning registration such as creating a new account (6:34-49, 9:40-43; 12:11-13:46), further comprising audio or visual means for prompting player input such as a keypad (12:31-13:46, esp. 12:40-43, fig 1-11, esp. 10-11).

8. Claims 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Benoy (6896618). As best understood, Benoy discloses a point of play registration on a gaming machine/table teaching claimed features (abstract, 2:31-3:36, 4:20-40, figs. 1-12).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 3, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett in view of Daugman (5291560). As best understood, Matchett discloses a machine or system as claimed including fingerprint and facial or retinal scan (*supra*) but lacks iris. Matchett also states that his invention includes 'all systems and configurations by which biometric and other data are continuously and/or intermittently taken and compared to a body of similar reference data for the purpose of authentication (13:36-46). Daugman discloses a system teaching identification based on iris analysis that is a passive biometric personal identification process that is superior to fingerprint analysis (abstract, 2:31-3:36, 4:20-40, figs. 1-12). Matchett emphasizes passive biometric personal identification. Therefore, it would have been obvious to an artisan at a time prior to the invention to add iris as taught by Daugman to Matchett's matrix for passive

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personal identification that is superior to fingerprint analysis. Particular biometric process fails to patentably distinguish.

12. Claims 6-9, 16-19, and 30-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett in view of Benoy (6896618). Alternatively, as best understood, where registering is registration such as creating/opening a new player account and where priority for features of registering at gaming machine including game table appears to be effective filing date of instant application of January 13, 2004, Benoy is prior art. Matchett discloses claimed invention where registering is to enter in an official register such as authenticating an existing account (sic), but lacks teaching creating an account at a gaming machine for 'registering the player' (clm 6-9, 16, 30-34), touch screen (clm 9, 19, 34, 39), 'associating said identification code with said biometric identification of said player to create a player file' (clm 35-40) and gaming table (clm 37), as claimed. Benoy discloses a point of play registration on a gaming machine/table teaching 'registering the player' and 'associating said identification code with said biometric identification of said player to create a player file' using touch screen (ref. 16) at a gaming machine or gaming table including use of player biometric data (abstract, 2:63-6:15, 7:24-30) for player convenience and to reduce personnel expense for registration process by automating at point of play registration. Some players prefer solitary play at their own pace; while, other players prefer social play at gaming table, thus by offering a game at both a gaming table and gaming machine, a player may select their preferred form of play at table or machine. Touch-screen technology is alternative equivalent input process to Matchett's keypad in so far as each permits input of identification code to authenticate player/user or is an obvious alternative for input for

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user convenience of direct input PIN to display screen. Therefore, it would have been obvious to an artisan at a time prior to the invention to add 'registering the player', 'associating said identification code with said biometric identification of said player to create a player file', touch screen and gaming table as taught by Benoy to Matchett's matrix for player convenience for direct input, to permit social play at gaming table as well as solitary play at own pace at a game machine so as to allow player preference of play and to reduce personnel expense for registration process by automating at point of play registration. Finally, regarding gaming establishment personnel (clm 40), Matchett and Benoy each includes human input where there is no device, sensor or authentication of whether human is gaming establishment personnel or a player. Similarly, there is no process or device to determine in Applicant's system, machine or method whether the human providing input is gaming establishment personnel or a player. Alternatively, permitting gaming establishment personnel to input code provides gaming establishment to retain control of code input thereby preserving what code is used by any player, as conventional or hornbook engineering for central control or password or PIN issuance. Therefore, it would have been obvious to an artisan at a time prior to the invention to add gaming establishment personnel as conventional/hornbook engineering for central control of password or PIN issuance to Matchett's matrix in view of Benoy to retain control of code input by gaming establishment to input code thereby preserving what code is used by any player.

13. Claims 12, 24-25 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett in view of either Franchi (5770533) or Slater (5613912). Matchett discloses claimed invention (sic) except live gaming table (clm 12, 28-29), track

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gaming play of said player (clm 24) and wagering (clm 25). Player tracking at a gaming table is by Official Notice notoriously well known. As evidence only, see 6142879 background of invention therein (1:11-2:3). Franchi discloses a customer tracking of players of a wagering game or live gaming table where an anonymous user entering a related number (i.e. PIN) in a customer tracking system was known for opening a customer account for tracking at a gaming machine or gaming table (2:14-35, 38-67, 3:1-47, 4:63-7:46, esp. 7:12-15); while, Slater discloses bet tracking system for wagering game such as at a live gaming table so as to track gaming play of said player (abstract, figs. 1-4B) where player tracking may be for providing comps in order to entice player loyalty. Therefore, it would have been obvious to an artisan at a time prior to the invention to add live gaming table, track gaming play of said player and wagering as taught by either Franchi or Slater to Matchett's matrix for improved identification of player and therefore improved tracking of player game play for providing comps thereby.

14. Claim 40 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Benoy. Benoy discloses claimed invention for human input of code (supra). Regarding gaming establishment personnel, Benoy includes human input where there is no device, sensor or authentication of whether human is gaming personnel or a player. Similarly, there is no process or device to determine in Applicant's system, machine or method whether the human providing input is gaming personnel or a player. Alternatively, permitting gaming establishment personnel to input code provides gaming establishment to retain control of code input thereby preserving what code is used by any player, as conventional or hornbook engineering for central control or password or PIN issuance. Therefore, it would have

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been obvious to an artisan at a time prior to the invention to add gaming establishment personnel as conventional/hornbook engineering for central control of password or PIN issuance to Benoy's point of play system, machine or process to retain control of code input by gaming establishment to input code thereby preserving what code is used.


Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454.

The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


M. A. Sager
Primary Examiner
Art Unit 3713

MAS